

REQUEST FOR PROPOSAL



STATE BAR of CALIFORNIA

This document is a Request for Proposal (“RFP”) for an insurance carrier (“Insurer”) for the State Bar of California’s (“State Bar”) sponsored Personal Lines Insurance Program on behalf of the State Bar members and their qualifying family members. Licensed insurance brokers are also invited to participate.

Please submit one (1) copy of your proposal in a sealed envelope and also by PDF attachment to an e-mail to the Contact person shown below no later than 5 p.m. on September 15, 2004. All responses to the Request for Proposal shall be submitted to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attn: Bill Brauer, Procurement Officer

Contact Information:
Phone: (415) 538-2543
E-mail: bill.brauer@calbar.ca.gov

A proposal shall constitute an irrevocable offer for 60 business days following the deadline for its submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized contact of any State Bar personnel may be cause for rejection of a bid.

I. INTRODUCTION

The State Bar of California (“State Bar”), created in 1927 by the Legislature and written into the constitution as a judicial branch agency in 1960, is a public corporation within the judicial branch of state government. By law all attorneys in California must be members of the State Bar of California. In accordance with statute and the State Bar's procurement policies, contracts in

excess of \$50,000, are subject to formal competitive bidding. As a governmental agency, the State Bar expects governmental pricing and contract terms and conditions.

The State Bar is seeking proposals for an Insurer of the State Bar's Sponsored Personal Lines Insurance Program. At a minimum the Insurer should be able to provide automobile and homeowners' insurance (collectively, "personal lines insurance") to members residing in the state of California. Additional available products, e.g., umbrella, recreational vehicle, watercraft, should also be included in your proposal, as well as your ability to write in all fifty states.

II. STATEMENT OF WORK

The State Bar's primary goals for this program are (1) to make available to State Bar members and their families quality personal lines insurance and other related products that a licensed personal lines insurance carrier may offer to the public, and to do so conveniently and at better terms than they could generally otherwise obtain on their own and (2) to generate revenue that can be used by the State Bar to cover the cost of current and expanded member services, and help hold down member dues. Following is a description of specific services required.

A. Marketing

1. Handle the marketing and sale of personal lines insurance to State Bar Members (primarily to the 140,000 active members practicing law in California and secondarily to approximately 45,000 inactive members located throughout the United States) and their families.
2. Provide significant Internet functionality, enabling members to obtain complete information on policies and preliminary price quotes (subject to final underwriting) and, if practicable, to compare such products with competitive products online.
3. Dedicate specifically described resources and personnel to market and service sponsored products to the members of the State Bar of California and their families.
4. Employ multiple marketing approaches, including the use of direct mail, appearances at the State Bar Annual Meeting, print advertisement, advertisement in Internet resources typically used by State Bar members, and e-mail. (The State Bar does not allow unauthorized e-mail solicitation).
5. Work well with the State Bar and its consultants to promote the strength and growth of the program.

B. General Administration

1. Please describe in detail how and where you will administer applications, policies, claims and other aspects of the program.

2. Please let us know whether you anticipate a need for face-to-face meetings with prospective insureds in the sales and/or application process. If so, how do you propose filling this need?
3. Please let us know how you solicit feedback from insureds to determine if they are satisfied with the service and products.
4. Please tell us the policy limits of the products you are prepared to write.

C. Management Reports

The selected Insurer will be required to provide reasonable quarterly and annual management reports, including:

1. Quarterly Reports of applications received and policies issued by category, gross premium, cancellations and non-renewals, claims paid/claims resisted, complaints and any litigation.
2. Annual Reports should include the information listed above, and should also include: financial reports, recommendations for improvements to the program, policies in-force, pure loss and combined ratios, marketing activities (including statistics on response rates and yield rates of marketing campaigns), plans and targets and reinsurance arrangements.

III. SUBMISSION REQUIREMENTS

The submission requirements for the RFP are detailed below. Any proposal, unless withdrawn, shall remain in effect for sixty calendar days following the deadline for its submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

1. A brief description of the history and organization of your firm, and of any proposed subcontractor.
2. The following information about your experience and operations:
 - a. Your experience in marketing personal lines insurance products specifically in an association setting (including, if available, sample penetration rates achieved by these programs) and your experience in using target marketing to increase penetration rates.
 - b. Any special advantages or opportunities in personal lines related programs that your firm offers over the competition.
 - c. Your experience in marketing a significant volume of other insurance and financial services products to members of Bar Associations and other Professional

Associations, such as AD&D Policies, Annuities and Retirement Plans, Business Owners' Policies (e.g. Fire, Theft, Premises Liability), Disability Policies, Long Term Care Policies, Health Insurance and/or HMO Plans, Professional Liability (Malpractice) Coverage, and Commercial Automobile. (Note, however, that only Auto and Homeowner's insurance will be awarded pursuant to this RFP.)

d. A brief description of your Customer Relationship Management system (CRM), its specific capabilities and where resources are located, including a description of staffing, location of principal services office, systems platform, and staff experience level for all internal resources; general administration, claims administration, customer service, underwriting and applications.

e. A description of the internet functionality you currently use to market personal lines insurance products, including the URLs of principal Web sites that you currently utilize to handle similar target markets or accounts.

g. Names of organizations that have used your services for similar programs that have been customers for a minimum of 12 months.

h. Qualifications, background and experience of the proposed program director and other senior staff proposed to work on the project.

i. Whether you carry Professional Liability, General Liability, and Employment Practices Liability Insurance, and, if so, with what policy limits.

3. A statement that you are willing to submit copies of business licenses, professional certifications or other credentials, together with evidence that your firm is in good standing and qualified to conduct business in California.
4. The most recent annual report, including detailed financial data. AM Best rating of "A-" or better is required.
5. A projection, indicating a high-low range, of annual non-dues fee revenue to the State Bar expected to be generated by the Program under your administration. The proposal might be based on any or all of the following fee arrangements listed below, or such other arrangements that you believe would maximize non-dues revenue to the State Bar while continuing to provide State Bar members and their eligible family members with pricing advantages and/or other unique benefits they could not generally obtain on their own.
 - a. Revenue based solely on a percentage of the Insurer's total premiums resulting from the program. If so, what is the minimum first year and annual renewal level of revenue that the State Bar can expect to receive?

- b. Compensation based on a percentage of first year and/or renewal premium for marketing services and/or an annual fee-for-service compensation for administrative services based on an appropriate measure of the work performed.
- c. Fee-for-service compensation for both marketing services and administrative services based on appropriate measures of the work performed.
- d. An initial Sponsorship fee, and
- e. Other negotiated arrangements. Please describe the proposed arrangement.

For each fee arrangement, you should indicate your willingness to separately allocate charges for marketing and other services, to facilitate measurement of the success of marketing efforts based on cost per new and renewal policy.

- 6. Your willingness to enter into a detailed written contract (“definitive agreement”) with the State Bar, setting forth the respective rights and duties of your firm, the State Bar, and the members participating in the Program, and further providing full defense and indemnification by your firm to the State Bar for any claim or action arising out of your firm’s work under the contract, in whole or in part.

IV. CONTRACTING REQUIREMENTS

Upon selection of an Insurer, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms described above in this RFP, final agreement between the State Bar and the selected Insurer will include, without limitation, the following terms. Insurer’s agreement to contract on these terms shall be presumed unless specifically reserved by Insurer in its proposal. Any reference below to “the agreement” or “this agreement” refers to the definitive agreement that will be entered into with the Insurer, and does not refer to this RFP.

A. Time of Essence

Time is of the essence with respect to Insurer's performance of the services and equipment to be provided in the agreement.

B. Term of Agreement

The term of the agreement will be for 3 years and continuing thereafter subject to cancellation on one hundred eighty (180) days notice or subject to earlier termination in accordance with the provisions of Section K appearing below.

C. Enforcement

The State Bar on its own behalf or on behalf of its members may enforce any provision of the agreement by way of claim for damages, temporary restraining order, preliminary or permanent injunction, specific performance or otherwise. This provision shall not affect or impair any rights held by members of the State Bar who are insured under the Program.

D. Use of the State Bar Approval in Marketing

1. Sales material pertaining to the Sponsored Personal Lines Program must be submitted to the Committee on Group Insurance Programs (“the Committee”), or its designee, for review and approval, and may not be used until such written approval has been granted. The Insurer may not use any material bearing the name or seal of the State Bar of California or any of its Committees without the prior written approval of the Committee. State Bar may grant or deny approval for any reason. To receive approval in a timely manner, the State Bar should typically receive materials from Insurer at least thirty (30) days in advance of a regularly scheduled Committee meeting.
2. So long as the agreement remains in effect, the State Bar agrees to allow the Insurer to state in its sales literature and other printed and written material that the Program is sponsored by the State Bar; provided however, that no such material shall be published or distributed except in accordance with Section D.1.

E. Warranties and Representations

Insurer will represent and warrant that it possesses such expertise, experience and resources to perform the scope of services required in a diligent, timely and professional manner consistent with the standards of the industry. Insurer will supply at all times an adequate number of well-qualified personnel to perform the work.

Insurer will represent and warrant that any technology used to provide the services under the agreement will not infringe any copyright or other proprietary right (including trade secrets) of any third party, and that Insurer has full authority to grant all rights to the State Bar hereunder.

Insurer will represent and warrant that no claim, whether embodied in an action past or present, of infringement of any patent, copyright, trademark, or other intellectual property right, has been made or is pending against Insurer or any entity from which Insurer has obtained such rights relative to the proposal presented to the State Bar hereunder.

F. Equipment, Tools, Supplies

The Insurer will supply all equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services and insurance required. The Insurer is not required to purchase, rent or hire any equipment, tools, supplies, offices,

transportation, personnel, insurance or instrumentalities from the State Bar. The State Bar has no obligation whatsoever to provide any equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services or insurance required to perform services under this agreement.

G. Indemnity Obligations of Insurer

To the fullest extent permitted by law, Insurer will protect, indemnify, defend and hold the State Bar and the State Bar's Board of Governors, officers, committees, committee members, employees, agents and representatives and each of their successors and assigns entirely harmless from and against any and all claims, actions, suits, demands, proceedings, liabilities, damages, judgments, fines, penalties, settlements, costs and charges, including, without limitation, defense attorneys' and experts' fees and expenses and any award of plaintiffs' attorney's and experts' fees and expenses, arising directly or indirectly from or in connection with (a) any breach by Insurer of the agreement, (b) any actual or alleged act, error or omission, intentional misconduct of, or violation of any law by Insurer, Insurer's employees, subcontractors, agents, representatives or assigns (collectively, "Insurer's Agents") in the performance or non-performance of the professional services required to be performed by Insurer under the agreement; (c) the State Bar's sponsorship of the Program or any acts or omissions of the State Bar pursuant to or taken in the course of effecting such sponsorship, or (d) the State Bar's enforcement of its rights under this indemnity provision. Insurer agrees that its obligations under this indemnity will survive the expiration and termination of the agreement.

To the fullest extent permitted by law, Insurer will protect, defend, indemnify and hold harmless State Bar (its Board of Governors, officers, agents, and employees, as the same may be constituted now and from time to time hereafter) from and against any and all liability, losses or damages or any expenses or costs whatsoever to the State Bar, including reasonable attorneys' fees and costs, as a result of any claims, demands, damages, costs or judgments against the State Bar based on allegations that, as a consequence of the services rendered hereunder, any program or software designed, developed, amended, merged or restructured, or any part thereof, alone or in combination with other programs or software, infringes on any patent or copyright or misappropriates a trade secret. If any such program or software or any part thereof, is held to constitute an infringement or misappropriation, and use of the program or software is enjoined, the Insurer will, at its own expense, either: (1) procure for the State Bar the right to continue to use the program or software or part thereof; (2) replace the program or software with a non-infringing replacement, provided that such replacement does not compromise performance and otherwise meets the State Bar's specifications; or (3) modify the program or software to make it non-infringing, provided that such modification does not compromise performance and otherwise meets the State Bar's specifications.

In the event both the State Bar and Insurer are named as defendants in the same civil action, and a conflict of interest exists between the parties, Insurer agrees to pay all reasonable fees

and costs charged by such independent counsel for the State Bar as the State Bar in its sole discretion appoints. The State Bar may, at its option, designate its Office of General Counsel as equal participating counsel in any litigation wherein the Insurer defends the State Bar.

H. Insurance Obligations of Insurer

Insurer agrees to provide and keep in full force and effect during the term of this agreement, at Insurer's own cost and expense, the following insurance policies for the joint benefit of Insurer and the State Bar, with a California-admitted insurer reasonably acceptable to the State Bar:

1. Commercial general liability insurance with a general aggregate limit (other than products/completed operations) of at least Two Million Dollars (\$2,000,000.00); at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit;
2. Workers' compensation coverage as required by law, together with employer liability coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence.
3. Comprehensive automobile liability insurance covering owned, leased, hired and non-owned vehicles with at least One Million Dollars (\$1,000,000.00) combined single limit.
4. Errors and Omissions Insurance with limits of five million dollars (\$5,000,000.00), naming the State Bar, its Board of Governors, officers, committees, committee members, advisors to its committees, and employees as named insureds. The errors and omission policy will insure the named insureds for "sponsorship, including approval or termination of approval or any activities pursuant thereto," of the insurance program. Insurer will pay the entire amount of premium and reimburse the State Bar for any sums the State Bar is required to expend to satisfy the deductible in the policy.
5. Insurer will provide the State Bar, Attn: Bill Brauer, Procurement Officer, with true and correct copies of its insurance policies required above, including the Endorsements or Declarations pages that expressly name the State Bar and its above-referenced personnel as named insureds, and certificates of such insurance. Each such policy will name the State Bar as an additional insured and will state that Insurer's policy shall be primary and that any insurance carried by the State Bar shall be noncontributing with respect thereto. Each such policy will provide for thirty (30) days prior written notice to the State Bar in the event of cancellation or reduction in coverage or amount. If Insurer fails to secure and maintain insurance policies complying with the provisions of this agreement, the State Bar may purchase the appropriate insurance policies and Insurer will pay upon demand the cost of it to the State Bar or the State Bar may terminate this agreement. In

addition to the insurance required to be obtained and maintained by Insurer, if Insurer assigns any portion of the duties under this agreement in accordance with the terms, hereof, each subcontractor or assignee will purchase and maintain the same insurance coverage required hereunder.

Insurer will immediately notify the State Bar if Insurer's commercial general liability insurance contains restrictive endorsements other than those restrictive endorsements normally included in the State of California. If Insurer's commercial general liability insurance contains such restrictive endorsements, Insurer shall have five (5) business days to remove said restrictions. If Insurer is unable to do so, the State Bar may terminate this agreement, and will be required to give Insurer no more than two (2) days' notice of such termination, anything in the definitive agreement to the contrary notwithstanding.

I. Expense of the Insurance Program

Insurer will assume the expense and cost of soliciting, promoting, and administering the Program, including but not limited to, printing and mailing costs, advertising and promotional expenses. No such costs will be paid by the State Bar.

J. Compensation

Insurer will receive no compensation from the State Bar for any services performed under the agreement.

K. Termination

1. **Authorization of Funds.** Any extension of this Agreement into a State Bar fiscal year subsequent to the year in which it is signed is contingent on the California State Legislature authorizing State Bar funding at not less than the current level. If the State Bar funding level is reduced, the State Bar will have no further obligation under this Agreement, and Vendor agrees to take back any affected equipment, products, software, or hardware furnished under this agreement, terminate any services supplied to the State Bar, and relieve the State Bar of any further obligation for such items or services.
2. **Default by Insurer.** The agreement may be terminated by the State Bar upon thirty (30) days' written notice to the Insurer in the event the Insurer is in default under any of its provisions. In the event the agreement is terminated due to the default by the Insurer, the State Bar will have the right to have the services contemplated under the agreement completed by other parties and the Insurer will reimburse the State Bar for the actual costs to complete the services in excess of the balance of the fee and reimbursable expenses, if any, provided for in the agreement. Any such act by the State Bar will not be deemed a waiver of any other right or remedy of the State Bar, including, without limitation, the State Bar's right to consequential damages caused directly or indirectly by the Insurer's default.

3. **State Bar's Option to Terminate.** The State Bar may immediately terminate the Agreement upon the occurrence of any of the following events: (a) bankruptcy or insolvency of Insurer; (b) sale, acquisition, or other change of ownership or control of all or a substantial portion of the business of Insurer to a person or organization that within the reasonable discretion of the State Bar lacks the experience, commitment, operational capability, financial strength, or integrity to continue the Program; or (c) Insurer's material failure to comply with federal, state or local laws, regulations or requirements or the terms of the agreement. The State Bar may also terminate the agreement on not less than ninety (90) days written notice in the event that the Insurer shall fail to achieve the marketing and revenue targets set forth in the agreement, or determined pursuant to the definitive agreement.

L. Ownership of Documents

1. **Assignment of Rights.** All work product and instruments of the specifications ("work product") and all rights thereto in the nature of copyright, trademark, patent and rights to ideas will be assigned to, and will become the property of the State Bar whether or not the work is completed. In the event of termination of the agreement, or abandonment or suspension of work performed thereunder, all work product and all such rights thereto existing as of the date of such termination, suspension or abandonment will be assigned to, and will become the property of the State Bar as of such date. The term "work product" shall include, without limitation, any and all versions of any and all drawings, plans, graphs, photographs, slides, studies, schedules, budgets, estimates, layouts, and legislative bills other work product and any services which have been or will be prepared or rendered by the Insurer, or under the Insurer's direction, pursuant to this agreement. The Insurer will covenant, warrant and represent to the State Bar that the Insurer has the right to assign the copyright and the work product. The Insurer will refrain from disclosing any and all versions of plans to any third party without first obtaining the written consent of the State Bar. The Insurer will not use or permit a third party to use any of the work product in connection with this project or any other project without the written consent of the State Bar. The Insurer will agree to deliver to the State Bar, within five (5) days of a written request, all or any portion of the work product set forth in the State Bar's request. The Insurer will be permitted to retain copies for information and reference. The Insurer will provide the State Bar with updated copies of all work product on a monthly basis either on a computer disk or other reproducible format as requested by the State Bar.
2. **Ownership and Inspection of Records.** All documents, membership lists, expiration lists, statistical records, computer tapes, books, records, and any other information pertaining to the Insurance Program shall be jointly owned by State Bar and Insurer. All documents, membership lists, expiration lists, statistical records, computer tapes, books, records and any other information pertaining to the Insurance Program in the possession of Insurer, whether generated or created by Insurer or furnished by State Bar, shall be open for inspection and copying by State Bar and its designated representatives at Insurer's principal place of business at all

reasonable times. Insurer may store any or all of such documents, membership lists, expiration lists, statistical records, computer tapes, books, records and any other information pertaining to the Insurance Program in microfilm, CD-Rom, electronic or other similar medium. Insurer agrees not to solicit clients by means of this list following termination or non-renewal of this Agreement for a period of two (2) years. Upon the expiration or termination of this Agreement or, at the election of State Bar, at any time within ninety (90) days of the effective date of any expiration or termination of this Agreement, all documents, membership lists, expiration lists, statistical records, computer tapes, books, records and any other information pertaining to the Insurance Program that have been either

- (a) delivered to Insurer by State Bar at the commencement of this Agreement,
- (b) delivered to Insurer by State Bar during any term of this Agreement, or
- (c) generated or created by Insurer or designated broker (if any) or State Bar during any term of this Agreement,

shall be delivered to State Bar or its designated representative, and copies of the same may be retained by Insurer.

M. Membership Lists

The State Bar will make available to the Insurer its membership list, subject to its membership list policies, which include provisions that require the Insurer to hold harmless and defend the State Bar with respect to any and all claims, costs and liabilities arising from or related to any release (including the State Bar's release of the membership list), use or misuse of the membership list.

N. Confidentiality and Publicity

The Insurer will retain all confidential information provided by the State Bar or its members in the strictest confidence and will neither use it nor disclose it to anyone other than employees requiring the information to perform services under the agreement without the prior written consent of the State Bar. The State Bar retains the right to enjoin any unauthorized disclosure in an appropriate court of law. The Insurer will not issue any public announcements concerning the State Bar without the prior written consent of the State Bar.

O. Nondiscrimination

During the performance of this agreement, the Insurer will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sex or sexual orientation. The Insurer will comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and applicable regulations promulgated there under (California Administrative Code, Title 2, section 7285.0 et seq.). The Insurer will include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.

P. Assignment/Subcontracting

1. **Assignment.** The Insurer will not assign or transfer its interest, in whole or in part, under this agreement, without the written consent of the State Bar, which consent may be granted or withheld in the sole and absolute discretion of the State Bar.
2. **Subcontracting.** The Insurer may subcontract with other qualified firms or individuals as required to complete all, or a portion of, the delivery of the services, subject to the prior written approval of the State Bar.

The Insurer will clearly describe the reason for using any subcontractors, the specific role each subcontractor will play in the project, and the relationship between the Insurer and its subcontractor to be maintained during the term of this agreement. Any such proposed subcontract shall be subject to the written approval of the State Bar prior to award of such subcontract by the Insurer. No subcontract will be approved unless the Insurer provides a written guarantee that the Insurer will be contractually obligated to assume all project responsibilities and the insurance requirements set forth above.

Q. General Provisions

1. **Force Majeure.** Neither party will be deemed in default of the agreement or any provision thereunder to the extent that any delay or failure in the performance of the obligations of such party (other than the payment of money) results from any significant and material causes beyond its reasonable control and without fault or negligence by such party. Examples of such causes include, but are not limited to, (1) acts of God or public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) embargoes, (9) earthquakes, and (10) unusually severe weather.
2. **Governing Law.** This agreement will be governed by the laws of the State of California.
3. **Attorneys' Fees.** In the event either party institutes any action or proceeding against the other party relating to the agreement, the unsuccessful party in such action or proceeding will reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorneys' fees as fixed by the court. In addition to the foregoing award of attorneys' fees to the successful party, the successful party in any lawsuit shall be entitled to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this agreement into any judgment.
4. **Arbitration.**
Any question, claim or dispute arising out of or in connection with this agreement that is in excess of Five Thousand Dollars (\$5,000.00) shall be referred to binding

arbitration. Such arbitration shall take place before one (1) arbitrator in the City and County of San Francisco, and shall be conducted in accordance with Part 3, Title 9 of the California Code of Civil Procedure. The arbitrator will be bound to apply legal principles in accordance with California law, without regard to its conflict of laws principles, unless the alleged claim or dispute is otherwise preempted by federal law. By agreeing to this arbitration clause, neither party waives applicable defenses or immunities available to it under California law. Any arbitration demand made under this clause must be made no later than one year from the expiration or termination of this agreement. The cost of the arbitration shall be borne equally by the parties. Disputes of Five Thousand Dollars (\$5,000) or less shall be determined in Small Claims Court in the City and County of San Francisco.

5. **License.** In those instances where required, the Insurer represents and warrants that the Insurer holds a license, permit or special license to perform the services pursuant to the agreement, as required by law, and shall keep and maintain all such licenses, permits or special licenses in good standing and in full force and effect at all times while the Insurer is performing the services pursuant to this agreement.

V. GENERAL INFORMATION

A. Rejection of Proposals

The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a proposer from full compliance with the RFP requirements.

Proposals may be rejected in any case where it is determined by the State Bar, in its sole discretion, that the proposal is not sufficiently competitive, the proposer lacks adequate financial strength or where the Insurer's costs are not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

B. Evaluation Process and Highest Score Proposer

An evaluation team will review in detail all proposals that are received to determine the Highest Scored Proposer ("HSP").

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, and other criteria as assessed by the review team.

During the evaluation process, the State Bar may require a proposer's representative to answer questions with regard to the proposal and/or require certain proposers to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team.

The following criteria will be used in reviewing and comparing the proposals and in determining the HSP. The weight to be assigned to each criterion appears following each item.

1. Responsiveness and creativity of the proposer, including its record of working with carriers to produce innovative products (20%)
2. Experience in successfully marketing a broad range of insurance products to members of professional associations (30%)
3. Technical Ability, including capability to use the Internet to market, sell and service insurance products (20%)
4. Compensation flowing to the State Bar for its support and oversight of the program (30%).

During the evaluation process, the State Bar may require a proposer's representative to answer questions with regard to the proposal and/or require certain proposers to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team. The State Bar may also have discussions with those proposers falling within a competitive range, and request revised pricing offers from such proposers and make an award and/or conduct negotiations thereafter.

C. Award and Execution of Contract

Subject to the State Bar's right to reject any or all proposals, the HSP will be awarded the contract. Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and sent to proposers on or about October 22, 2004, of the Bar's intention to award the contract to the HSP. It is anticipated that final selection of the HSP will be made by October 29, 2004. The evaluation team will select a winning proposal subject to approvals granted by the Board of Governors. Upon selection, the State Bar and the selected Insurer will enter into good faith negotiations to arrive at a formal written contract containing, without limitation, the Statement of Work and

Contracting Requirements sections contained in this RFP.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written contract by both parties. If agreement on the terms of such a contract cannot be reached after a period deemed reasonable by the State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other proposer who submitted timely, responsive and responsible proposals to this RFP.

If, after the State Bar and the HSP agree to terms and execute a contract, that contract is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored proposer, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter, in connection with the selection process, should be addressed in writing to Bill Brauer, contact information above.

D. Errors in the RFP

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the proposer should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all potential proposers to whom the RFP was sent.

If prior to the date fixed for submissions, a proposer knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the proposer shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

E. Questions Regarding the RFP

Questions regarding the RFP may be addressed in writing to Bill Brauer, contact information above.

All questions and answers regarding the RFP may be shared with all proposers.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the proposer may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the proposer must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose

proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the proposer will be notified.

A proposer who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. Any such request must be received by the State Bar no later than 21 days prior to the deadline for submitting proposals.

F. Addenda

The State Bar may modify the RFP prior to the date fixed for submission by mailing, e-mailing or faxing an addendum to the proposers to whom the RFP was sent. If any proposer determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than three (3) days following the receipt of the addendum.

G. Withdrawal and Resubmission/Modification of Proposals

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the proposer. The proposer may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline.

Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

H. Protest Procedure

A proposer may protest the award if it meets all the following conditions:

1. The proposer has submitted a proposal that it believes to be the lowest cost responsible proposal, under the criteria set forth above;
2. The proposer believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The proposer believes that the State Bar has incorrectly selected another proposer.

A proposer qualified to protest should contact Bill Brauer, contact information above, to attempt an informal resolution. If he is unable to resolve the protest to the proposer's satisfaction, the proposer must file a written protest within 5 days of the notice of intention to award contract. The written protest must state the facts surrounding the

issue and the reasons the proposer believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attention: Peggy Hetzler, Chief Financial Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

I. News Releases

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

J. Disposition of Materials

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the proposer. One copy of each proposal will be retained for official files and become a public record. Specific limited pages of a proposal, not including proposed cost and compensation, may be marked as proprietary and confidential. The proposer's consent will be requested before release of such pages to non-State Bar personnel, other than members of the Committee on Group Insurance or the Committee on Professional Liability Insurance, the State Bar's legal counsel or the State Bar's actuarial consultants. By submitting a proposal, a proposer agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

K. Form of Notice

Unless otherwise provided herein, written notice must be sent by U.S. mail **and** either facsimile or e-mail.